



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Montana State Office
5001 Southgate Drive, P.O. Box 36800
Billings, Montana 59107-6800
<http://www.mt.blm.gov/>

IN REPLY TO:

SDR-922-01-01
MTM-89335
3165.3 (922.J

OCT 18 2000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DECISION

J. Michael Warren
Headington Oil, LP
7557 Rambler Rd, Suite 1100
Dallas, Texas 75231

SDR No. 922-01-01

Assessment Reduced

Headington Oil, LP (Headington) requested a State Director Review (SDR) (Enclosure 1) of a Notice of Violation and Assessment (Enclosure 2), issued by the Miles City Field Office (MCFO) on September 13, 2000, for drilling the 11-4 Berry well within Federal lease MTM 89335 without prior approval. The SDR request was considered timely filed on October 4, 2000, in accordance with 43 CFR 3165.3(b), and assigned number SDR-922-01-01.

In your SDR request, you state that you intentionally worked to stay off the Federal lands, and were not aware that a Federal Drilling Permit (APD) would be required, since you were drilling on fee lands and not on Federal land. You stated that while you are in agreement that under the letter of the law, the assessment is justified, it was never your intention to drill a well on Federal land without first securing the necessary permits. You requested for some relief of the \$5,000 assessment.

On August 15, 2000, the MCFO received a copy of your drilling permit approved by the Montana Board of Oil and Gas Conservation (Board) on August 9, 2000. A review of the legal descriptions in the permit identified that the horizontal portion of the well penetrates the Federal lease. However, no Federal APD had been filed with the MCFO. The well was proposed as a horizontal prospect in the Ratcliffe Formation, with a surface hole location in the NW¼ of sec. 4, T. 26 N., R. 59 E., P.M.M., Roosevelt County, Montana. The bottom hole was planned for the SE¼ of sec. 3 (Enclosure 3). Your State application also assigned a 480-acre drilling unit for the 11-4 Berry well consisting of the NW¼ of sec. 4, and NW¼ of sec. 3, with an easterly oriented horizontal leg. The record shows that the 11-4 Berry well commenced drilling operations on August 9, 2000, and was later completed for production on September 25, 2000.

The MCFO determined that Headington had violated the regulations and issued an assessment. The regulations at 43 CFR 3162.3-1(c) requires submission of an APD for each Federal well and prohibits drilling and surface disturbance prior to the authorized officer's approval of the APD. The regulations at 43 CFR 3163.2 also authorize imposition of an immediate assessment for such a violation. The penalty is \$500 per day, to a maximum of \$5,000.

You requested for some relief of the \$5,000 assessment. According to the record, we agree that Headington's failure to obtain approval from the

authorized officer was inadvertent. In addition, Headington's good compliance history as an operator on Federal leases, and immediate response in preparing and filing the necessary documents for the Federal APD with the MCFO has also been considered. We have concluded that the reduction of the assessment is appropriate, and hereby reduce the assessment from \$5,000 to \$500.

A new Bill for Collection in the amount of \$500 will be issued by the MCFO.

This Decision may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.400 and Form 1842-1 (Enclosure 4). If an appeal is taken, a Notice of Appeal must be filed in this office at the aforementioned address within 30 days from receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. The appellant has the burden of showing that the Decision appealed from is in error.

If you wish to file a Petition for a Stay of this Decision, pursuant to 43 CFR 4.21, the Petition must accompany your Notice of Appeal. A Petition for a Stay is required to show sufficient justification based on the standards listed below. Copies of the Notice of Appeal and Petition for a Stay must also be submitted to each party named in this Decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a Decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

*/s/ JE Moorehouse
for*

Thomas P. Lonnie
Deputy State Director
Division of Mineral Resources

4 Enclosures

- 1-Headington SDR Requested dated October 3, 2000 (2 pp)
- 2-MCFO letter dated September 13, 2000 (2 p)
- 3-Map of subject area (1p)
- 4-Form 1842-1 (1 p)

cc: (w/encls.
MCFO

cc: (w/o encls.)
WO(310), LS, Rm. 406
Great Falls Oil and Gas Field Station